

REMARKS

DRAWINGS

PARAGRAPH 3 OF OFFICE ACTION

The Examiner has objected to the drawings under 37 CFR 1.83(a). The Examiner noted that the drawings must show every feature of the invention specified in the claims, and asserted that the V-shaped channel (in claims 4 and 14) and V-shaped cross section (in Claim 16) must be shown or the feature(s) canceled from the claim(s).

Although the Examiner noted that a proposed drawing correction or corrected drawings are required in reply to the Office Action to avoid abandonment of the application, Applicant respectfully submits (and further explains below) that the V-shaped channel/cross section as claimed in Claims 4, 14, and 16 already is sufficiently shown in the drawings, and that no drawing correction is required. Perhaps most importantly, Applicant notes that the relevant limitation includes the phrase “generally inverted” (thus, the limitation at issue is actually “generally inverted V-shaped [channel/cross section]”, rather than just “V-shaped [channel/cross section]”).

Among other things, reference number 40 in Figures 2-5 illustrates the claimed generally inverted V-shape element(s). Applicant’s specification states, “The preferred container upper edge 12 is tapered from a relatively thinner dimension to a relatively thicker dimension moving from the upper edge 12 toward a bottom portion 11 of the container (FIG. 1). Preferred channel 40 includes a corresponding tapered section” (p. 6, l. 8-11).

More specifically, and as shown in each of the aforementioned Figures, the tapered or V-shaped channel 40, as claimed, is preferably defined by inner leg 42 and outer leg 44 of the cross

section configured to abut container edge 12 to form the desired liquid-tight seal with the container 10. (Pg. 6, l. 3-5). Applicant has even more expressly clarified the issue via other textual amendments discussed herein.

Accordingly, Applicant respectfully submits that the drawings do sufficiently show, among other features, the generally inverted V-shaped channel of Claims 4 and 14, and the generally inverted V-shaped cross-section of Claim 16. Applicant respectfully requests reconsideration and notice that the objection has been withdrawn.

CLAIM OBJECTIONS

PARAGRAPH 4 OF OFFICE ACTION

Claim 4 was objected to because of the following alleged informalities: in Claim 4, line 5, “said assembly” should be –the assembly–.

Applicant has amended Claim 4 as indicated herein, and respectfully submits that the Examiner’s claim objection to that claim has been overcome.

CLAIM REJECTIONS 35 U.S.C. §112

PARAGRAPH 6 OF OFFICE ACTION

Claims 4, 14-17 and 18 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner asserts that the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, the Examiner alleges that the V-shaped channel (Claims 4 and 14) and V-shaped cross section (Claim 16) are not described in the specification, and with regard to Claim

18, the wider region spaced away from the uppermost portion is not described in the specification for the elected Species I, Figures 2-5.

Applicant respectfully submits that at least the V-shaped channel (Claims 4 and 14) and V-shaped cross section (Claim 16) rejections may be related to the issue discussed above regarding the Examiner's objections to the drawings. Applicant respectfully submits that, at least as to those objections, Applicant's foregoing remarks regarding the drawings are sufficient to similarly address the Examiner's rejection under Section 112. In an excess of caution, however, Applicant has amended the specification to insert "generally inverted V-shape" at several locations.

To the extent that the Examiner requires further response in this regard, however, and in any case with respect to the rejection of Claim 18 on the basis of Section 112, Applicant notes that an application need not contain a word-for-word description of the claimed invention to satisfy the written description requirement (i.e., the claims of the invention need not be identically written in the disclosure of the application). All that is required is that the application reasonably conveys the claimed subject matter. Ex parte Parks, 30 USPQ 2d 1234 (B.P.A.I 1994). Further in this regard, the drawings may be used to supplement the written description. A drawing, defined as a visual representation of something made by lines on surface, may by itself constitute a written description of the invention if it reasonably conveys to one of ordinary skill that the inventor possessed the invention. Vas-Cath, Inc. v. Mahurkar, 935 F2d. 1555, 19 USPQ 2d 1111 (Fed. Cir. 1991)

"Consider, for one thing, that the sole disclosure in a design patent application is by means of a drawing . . ." In re Wofensperger, 49 C.C.P.A. 1075, 302 F. 2d 950, 133 U.S.P.Q.

(BNA) 537 (1962). “Whether the drawings are those of a design application or a utility application is not determinative, although in most cases the latter are much more detailed.” Vas-Cath, at 1565.

Even if the drawings were not sufficient in this regard (which Applicant respectfully disputes), Applicant’s original specification already includes language that sufficiently describes the invention, as it reasonably conveys to one of ordinary skill that the inventor possessed the invention.

Especially as now amended, Applicant’s specification notes that the channel 40, may be conveniently described as having a generally inverted U-shaped (or an equivalent inverted V-shaped) cross section defined by inner leg 42 and outer leg 44. Applicant respectfully submits that, upon inspection of Figures 2-5, persons of ordinary skill in the art would understand that the channel 40 “described as having a generally inverted U-shaped (or an equivalent inverted V-shaped) cross section” (Applicant’s specification, Pg. 6, l. 3 et seq.) might further be described as having “a generally inverted V-shaped cross-section” (Claims 4 and 14; emphasis added).

Even without those amendments, Applicant’s specification also included the following text, which Applicant respectfully submits made the original language sufficiently clear:

“Although an embodiment may be described with some specificity, the description and drawings set forth within the specification are not intended to be delimiting, and persons of ordinary skill in the art will understand that various modifications may be made to the embodiments discussed without departing from the scope of the invention, and all such changes and modifications are intended to be encompassed within the scope of the appended claims” (specification, p. 12, l. 11-16).

Regarding the Examiner’s rejection of Claim 18 in connection with the limitation “wider region spaced away from the uppermost portion,” Applicant respectfully traverses the rejection.

In an excess of caution, however, and to the extent that the Examiner is objecting to the “direction” of the tapering described in Claim 18, Applicant has amended both Claim 18 and the specification to include the phrase “wedge member tapering in cross section [from] to an uppermost point region of said upper edge [to] from a wider region spaced away from the uppermost portion”.

Among other things, Applicant notes that the larger context of the rejected phrase (especially as amended) makes even more clear the sufficiency of Applicant’s specification. Moreover, Applicant respectfully submits that Figures 2-5 as originally filed and the text previously discussed above regarding Claims 4, 14, and 16 not only reasonably convey the aforementioned concepts of the V-shaped channel (as recited in Claims 4, 14, and 16), but similarly reasonably convey a “wedge member tapering in cross section to an uppermost point region of said upper edge from a wider region spaced away from said uppermost portion”, as now recited in Claim 18. In cross section, a wedge member typically tapers to a point or narrower region from a wider region. Thus, Applicant’s drawings and specification sufficiently describe and relate to the claimed “tapering wedge” and the orientation and location of same.

Accordingly, Applicant respectfully submits that Claims 4, 14-17 and 18, especially as amended, meet the requirements of 35 U.S.C §112, first paragraph, in that the specification reasonably describes or conveys to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention.

CLAIM REJECTIONS 35 U.S.C. §102

PARAGRAPH 8 OF OFFICE ACTION

Claims 1-5 and 14-18 were previously presented. In the present amendment: Claim 1 has been canceled without prejudice; Claims 2, 4, 14, and 18 have been amended; and Claims 19-21 have been added. Thus, after entry of the present response, Claims 2-5 and 14-21 will be pending.

Regarding the cancellation of Claim 1 without prejudice, upon further review, it appears that Claim 1 is directed to the non-elected Species II, Figures 6-9 (as set forth in Paper No. 13, the Examiner's Election/Restriction dated May 20, 2003). Accordingly, Applicant is withdrawing it from the current application without prejudice.

Of the above-referenced rejected claims that remain pending after entry of this Amendment, Claims 4, 5, and 14-18 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Von Holdt, Jr., U.S. Patent No. 6,619,498. Claims 2 and 3 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Obrist et al., U.S. Patent No. 4,252,242. As explained below, Applicants respectfully traverses those rejections.

In that regard, of the above-referenced rejected claims that remain pending after entry of this Amendment, Claims 2, 4, 14, 16, and 18 are independent. Accordingly, once patentability of those claims is established, all claims depending from them (including all other pending claims) are likewise allowable.

In regard to Claims 4, 14, 16, and 18, the Examiner asserts that the Von Holdt lid is a generally inverted V-shape, and the assembly between the lid, the container not including

rotating threaded engagement, and the inner contact surface of the channel extending toward the bottom of the container at least as far as the outer contact surface of the channel.

Among other things, Applicant respectfully submits that Von Holdt does not teach or make obvious a generally V-shaped or wedge member channel as claimed in Applicant's Claims 4, 14, 16, and 18.

More specifically, Von Holdt teaches only what appears to be best described as a "W" shaped channel. In this regard, the channel 52 includes a downwardly extending tongue or wedge seal 48. (Col. 4, 1.2-3) As indicated in the Von Holdt patent, "In the preferred embodiment, the channel 52 and the seal 48 are fully circumferential. However, other configurations are possible so long as the seal 48 and channel 52 are compatible and provide a sealing function." (Col. 4, 1. 3-6) Accordingly, in the "W" shaped channel arrangement as disclosed in Von Holdt, provides a sealing function by a portion of the lid (tongue or wedge 48) protruding into a horizontal top surface 51 of the container's horizontal rib 50.

In contrast, Applicant's invention provides a sealing function by a portion of the container (upper edge 12) protruding into a portion of the lid as indicated by the "V" or wedge shaped channel 40. Accordingly, the sealing structure arrangement of Applicant's invention (as defined in the Claims under consideration herein) is directly opposite to the sealing structure arrangement of the Von Holdt device. As shown in Applicant's Figures 2-5, the inner leg 42 and outer leg 44 of the channel 40 are intended to form a liquid-tight seal with the upper edge 12 of the container 10 when the lid 30 is assembled on the container 10. The Von Holdt device affords no such liquid-tight seal between the inner and outer surfaces of the lid and container. In this regard, Figures 2 and 8 of the Von Holdt patent clearly show a gap, space, or non-sealing area

between the inner and outer surfaces of the lid and container. In other words, the aforementioned structural differences between Von Holdt and Applicant's invention provide two entirely different methods of sealing together the lid and container.

Among other things, and as a consequence, Applicant's claimed invention is much simpler to manufacture and assemble in a desired sealing relationship, and would appear to be less likely to experience damage that might compromise the sealing (because, for example, von Holdt's more complicated structure might result in the wedge seal 48 being bent or torn if the lid is not aligned properly on the container).

Accordingly, in view of the aforementioned remarks, it is thought that Claim 4 and Claim 5 depending therefrom, Claim 14 and Claim 15 depending therefrom, Claim 16 and Claim 17 depending therefrom, and Claim 18 are not taught, disclosed or made obvious by the Von Holdt patent.

In regard to Claim 2, the Examiner asserts that Obrist discloses an apparatus comprising a container 1 having an upper edge; a lid 2 having a channel configured to abut and form a liquid-tight seal with the container upper edge, in which the container upper edge comprises a thicker tapered portion 9; the channel including an outer skirt 3 having annular shoulder formed therein and the shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid.

Among other things, as recited in Claim 2 and new Claim 19, Applicant respectfully submits that the Obrist patent does not teach or make obvious: (1) a lid having a channel configured to abut and form a liquid-tight seal with the container upper edge, (2) a container upper edge tapered from a relatively thinner dimension to a relatively thicker dimension moving

in from the upper edge toward a bottom portion of the container, the channel including a corresponding tapered section, the tapering relationship providing contacting and sealing engagement between the lid and the container, and (3) the lid including an annular shoulder formed therein, the shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid.

(1) CHANNEL CONFIGURED TO FORM A LIQUID-TIGHT SEAL

Applicant respectfully submits that Obrist does not teach or make obvious Applicant's claimed lid having a channel configured to abut and form a liquid-tight seal with the container upper edge. On the contrary, the channel of the Obrist lid 2 forms no part of a sealing element between the container 1 and the lid 2. As disclosed in Obrist, "The bottom portion 6 of the cover is arranged at a position in which it is sunk somewhat into the container, and a peripheral bead 7 which is pressed against the inside wall of the container reliably seals the container." (Col. 3, l. 21-25) In other words, it is the peripheral bead 7 (positioned remotely from the lid channel) that provides the sealing function of the Obrist device. Accordingly, Obrist does not teach or make obvious a lid having a channel configured to abut and form a liquid-tight seal with the container upper edge.

(2) TAPERING RELATIONSHIP BETWEEN LID AND CONTAINER PROVIDES SEALING ENGAGEMENT

As shown in Figures 2-5 and as recited in Claim 2 and new Claim 19, Applicant teaches a container having an upper edge tapering to a relatively thinner dimension from a relatively thicker dimension moving toward the upper edge from the direction of a bottom portion of the container. As clearly shown in Figures 2-5, the taper of the upper edge 12 begins at about the outwardly extending detent 50 and continues to taper toward the apex of the upper edge. In other

words, the upper edge 12 and the detent 50 form two distinct elements of Applicant's container 10. The upper edge 12 forms a tapered section and the detent 50 forms a protruding section of the container 10. In this regard, as specifically recited in Claim 19, the tapered portion of Applicant's upper edge 12 does not form any portion of the detent 50 for retaining engagement between the lid 30 and the container 10.

In contrast, the Obrist device includes no such separately tapered upper edge. Obrist's only "taper" appears to be its "holding bead" 9. That bead 9 apparently does not even extend around the container, but is only formed at the corners (see Fig. 4). Accordingly, for the majority of Obrist's perimeter (those areas in which no bead 9 is formed - see again Figs. 3 and 4), it does not appear that any "tapered" surface 9 is contacting Obrist's lid, let alone providing Applicant's sealing relationship of Claim 2:

"...tapering relationship providing contacting and sealing engagement between said lid and said container on both an inner contact surface and an outer contact surface of said upper edge..."

As shown in Figure 1 of the Obrist patent, Obrist's container upper edge (positioned above the holding bead 7 and arguably corresponding to the upper edge 12 of Applicant's container 10) has no taper, but instead is a uniform (non-tapering) thickness, certainly at those locations where there is no "holding bead" 9.

Applicant respectfully submits that Obrist similarly falls short of the elements set forth in new Claim 19.

As indicated above, the Obrist patent does not indicate that the upper edge of the container provides any sealing function or any function at all. Instead, the Obrist patent does

indicate that a peripheral bead 7 pressing against the inside wall of the container seals the Obrist container. (Col. 3, 1.24-25). Among the reasons for that sealing location/structure (rather than Obrist's holding bead 9 providing any sealing function) relates to the facts mentioned above: Obrist's holding bead 9 does not extend around the entire container, and therefore cannot "seal" between the lid and container – there would be leaks (rather than a seal) where there is no holding bead 9.

Accordingly, unlike Applicant's invention, the upper edge of the Obrist container does not comprise a tapered portion that provides sealing engagement between the lid and the container.

**(3) SHOULDER POSITIONED BETWEEN AN ENGAGING DETENT ON THE SKIRT AND THE
UPPPERMOST PORTION OF THE LID**

Applicant respectfully submits that Obrist does not teach or make obvious a shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid, as recited in Applicant's Claim 2 and new Claims 19 and 20.

Representative of those limitations is this portion of Claim 19: "an outer skirt having a shoulder formed therein, the shoulder extending further outwardly than an uppermost portion of the lid, the shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid." This limitation is supported, among other things, by Applicant's specification: "Outer skirt 44 preferably includes a lower portion 46 spaced outwardly from the container upper edge 12. This spacing is preferably provided by a shoulder section 45, and makes it easier to "seat" or align the lid 30 onto the container 10." (Applicant's spec., at p. 7, l. 2-4).

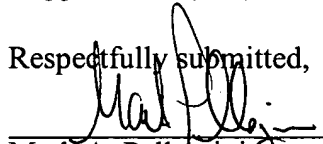
Accordingly, Applicant respectfully submits that Obrist does not teach or make obvious Applicant's claimed shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid, as recited in Applicant's Claim 2 and new Claims 19-21.

Claims 20 and 21 add further limitations not found in or made obvious by Obrist or by any permissible combination of the prior art, including "the tapered portion of said container upper edge not forming any portion of the engaging detent" (Claim 20) and "said contacting and sealing engagement between the lid and the container said outer contact surface of the upper edge comprises a generally planar surface without any substantial angles when viewed in cross section" (Claim 21).

In view of the amendments and remarks set forth above, it is thought that the application including Claims 2-5 and 14-21 is now in condition for allowance, notice whereof is respectfully requested of the Examiner.

If the Examiner had any questions regarding the foregoing, or if the Examiner would like to discuss any remaining or new issues regarding this communication, the Examiner is invited to contact the undersigned representative of Applicant at (949) 718-6750.

Respectfully submitted,



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Enclosures

Amendments to the Specification

Paragraph located at page 3, lines 10-15

A similar object of this invention is the provision of a lid having a generally inverted U-shaped (or an equivalent inverted V-shaped) cross section, both legs of the cross section configured to abut a corresponding container to thereby form a liquid-tight seal with the container. The lid can include inwardly directed engagement detents on the outermost of the legs to engage corresponding detents on the container, to hold the lid in the liquid-tight sealing relationship on the container.

Paragraph located at page 5, lines 19-22 and page 6, lines 1-7

FIGS. 2-5 illustrate various aspects of the preferred liquid-tight sealing relationship between lid 30 and container 10. Container 10 preferably includes a generally tapered upper edge 12 that defines an upwardly directed opening. Lid 30 preferably covers that opening, and includes a mating peripheral channel 40. Preferred channel 40 is configured to abut and form a liquid-tight seal with the upper edge 12 of the container when the lid 30 is assembled on the container 10. Channel 40 may be conveniently described as having a generally inverted U-shaped (or an equivalent inverted V-shaped) cross section, with both inner leg 42 and outer leg 44 of the cross section configured to abut container edge 12 to form the desired liquid-tight seal with the container 10. Preferably, the tolerances and precise angles and dimensions of the upper edge 12 and the channel 40 are such that a liquid-tight seal can be achieved at that interface without using a separate gasket element.

Paragraph located at page 6, lines 14-19

The preferred container upper edge 12 is tapered from a relatively thinner dimension to a relatively thicker dimension moving in from the upper edge 12 toward a bottom portion 11 of the container (FIG. 1). The upper edge's cross section preferably forms a generally vertical wedge member, the wedge member tapering in cross section to an uppermost point region of the upper edge from a wider region spaced away from the uppermost portion. Preferred channel 40 includes a corresponding tapered section. The tapering relationship provides contacting and sealing engagement between the lid 30 and the container 10 on both an inner contact surface (abutting leg 42) and an outer contact surface (abutting leg 44) of the upper edge 12.

Amendments to the Claims

Claim 1 (Cancelled without prejudice)

Claim 2 (Currently amended) Apparatus for providing a liquid-tight seal, including: a container having an upper edge defining an opening; and an injection-molded lid configured to cover said opening, said lid having a channel at its periphery, said channel configured to abut and form a liquid-tight seal with said upper edge of said container when said lid is assembled on said container, in which said container upper edge is tapered from a relatively thinner dimension to a relatively thicker dimension moving in from said upper edge toward a bottom portion of said container, and said channel includes a corresponding tapered section, said tapering relationship providing contacting and sealing engagement between said lid and said container on both an inner contact surface and an outer contact surface of said upper edge, said ~~channel~~ lid including an outer skirt having an annular shoulder formed therein, said shoulder extending further outwardly than an uppermost portion of said lid, said shoulder positioned between an engaging detent on said skirt and said uppermost portion of said lid.

Claim 3 (Original) The apparatus of Claim 2, in which said channel also sealingly contacts a transition surface on said container upper edge between said inner contact surface and said outer contact surface, when said lid and said container are assembled with each other.

Claim 4 (Currently amended) Apparatus for providing a liquid-tight seal, including: a container having an upper edge defining an opening; and an injection-molded lid configured to cover said

opening, said lid having a generally inverted V-shaped channel at its periphery, said channel configured to abut and form a liquid-tight seal with said upper edge of said container when said lid is assembled on said container, ~~said~~ the assembly between said lid and said container not including any rotating threaded engagement, in which said channel on said lid is formed by an inner skirt and an outer skirt, both of which are generally downwardly directed, and said outer skirt includes a lower portion spaced outwardly from said container upper edge to facilitate engagement of said lid on said container, said liquid-tight seal including an inner contact surface of said channel extending toward the bottom of said container as least as far as an outer contact surface of said channel

Claim 5 (Original) The apparatus of Claim 2 or Claim 3, including cooperating engagement detents on said lid and said container to hold said lid and said container in said liquid-tight sealing relationship.

6-13 (Withdrawn)

Claim 14 (Currently Amended) A container lid having a tapered channel at its periphery, ~~said~~ channel being in a generally inverted V-shape, said channel configured to abut and form a liquid-tight seal with an upper edge of a corresponding container when said lid is assembled on the container, said tapered channel providing contacting and sealing engagement between said lid and the container on both an inner contact surface and an outer contact surface of said channel,

said inner contact surface of said channel extending toward the bottom of the container as least as far as said outer contact surface of said channel.

Claim 15 (Original) The lid of Claim 14, including engagement detents on said lid to engage corresponding detents on the container, to hold said lid in said liquid-tight sealing relationship on the container.

Claim 16 (Previously amended) A lid having a generally inverted V-shaped cross section, both legs of said cross section configured to abut a corresponding container to thereby form a liquid-tight seal with the container.

Claim 17 (Original) The lid of Claim 16, including inwardly directed engagement detents on the outermost of said legs to engage corresponding detents on the container, to hold said lid in said liquid-tight sealing relationship on the container.

Claim 18 (Currently amended) Apparatus for providing a liquid-tight seal, including: a container having an upper edge defining an opening; said upper edge constituting in cross section a generally vertical wedge member, said wedge member tapering in cross section [from] to an uppermost point region of said upper edge [to] from a wider region spaced away from said uppermost portion; and a lid configured to cover said opening, said lid having a correspondingly-shaped wedge receiving channel at its periphery, said correspondence between said wedge member and said channel forming a liquid-tight seal therebetween when said lid is assembled on

said container, with substantially no deformation of said wedge receiving channel required for said assembly of said lid and container, said wedge member and said channel including an inner contact and an outer contact surface between said lid and said container, said inner contact surface extending toward the bottom of the container as least as far as said outer contact surface.

Claim 19 (New) Apparatus for providing a liquid-tight seal, including:

a container having an upper edge defining an opening; and

an injection-molded lid configured to cover the opening, the lid having:

a channel at its periphery, and

an outer skirt having a shoulder formed therein, the shoulder extending further outwardly than an uppermost portion of the lid, the shoulder positioned between an engaging detent on the skirt and the uppermost portion of the lid;

wherein the channel is configured to abut and form a liquid-tight seal with the upper edge of the container when the lid is assembled on the container, the container upper edge is tapered to a relatively thinner dimension from a relatively thicker dimension moving toward the upper edge from the direction of a bottom portion of the container, the tapered portion of said container upper edge not forming any portion of the engaging detent; and

wherein the channel includes a corresponding tapered section, the tapering relationship providing contacting and sealing engagement between the lid and the container on both an inner contact surface and an outer contact surface of the upper edge.

Claim 20 (New) The combination of a container and a mating lid, including:

apparatus for providing a liquid-tight seal between said container and said lid, said apparatus including:

said container having an upper edge defining an opening; and

said lid configured to cover the opening, the lid having a channel at its periphery, said channel being configured to abut and form a liquid-tight seal with the upper edge of the container when the lid is assembled on the container;

said container upper edge being tapered to a relatively thinner dimension at its upper edge as compared to its thickness in the direction of a bottom portion of the container, said tapered container upper edge not forming any portion of an engaging detent between said container and said lid; and

wherein the channel includes a corresponding tapered section, the tapering relationship providing contacting and sealing engagement between the lid and the container on both an inner contact surface and an outer contact surface of the upper edge.

Claim 21 (New) The combination of Claim 20, in which said contacting and sealing engagement between the lid and the container said outer contact surface of the upper edge comprises a generally planar surface without any substantial angles when viewed in cross section.